



STATE OF ALABAMA

Forest Products Privilege and Severance Tax Laws

March 1995

This booklet is a copy of the Alabama Forest Products Severance Tax Law including all amendments through the 1993 Regular Session of the Alabama Legislature. This law, which is administered by the Severance Tax Section, Natural Resources and License Tax Division of the Alabama Department of Revenue, requires the filing of quarterly reports and tax payments by all producers and processors of forest products harvested in Alabama. The Privilege Tax, which is reproduced herein, is codified as Title 9, Chapter 13, § 80 through 108, **Code of Alabama 1975**, as amended.

Every individual, firm, partnership, corporation, association or combination thereof who severs products from the soil or uses them in the manufacturing process must comply with the aforementioned statute.

Form **FPST-1** should be used for reporting and paying the tax on the severing of forest products from the soil. Form **FPST-3** should be used in reporting and paying the tax on forest products used in the manufacturing process. FPST-4 is a supplemental sheet to be used with Forms FPST-1 and FPST-3 to show county breakdown when products are severed within multiple counties. These reports and payments are due within thirty (30) days after the end of each calendar quarter.

All reports, payments, and telephone inquiries regarding the forest products severance tax laws should be directed to:

Alabama Department of Revenue
Natural Resources and License Tax Division
Severance Tax Section
P. O. Box 327560
Montgomery, Alabama 36132-7560
Telephone: (334) 242-9612

Taxpayers qualifying for Electronic Funds Transfer, (EFT) should direct their reports to:

Alabama Department of Revenue
Information Processing Division
EFT Unit
P.O. Box 327950
Montgomery, Alabama 36132-7950
1-800-322-4106

CODE OF ALABAMA 1975 AS AMENDED

TITLE 9

CHAPTER 13

FOREST PRODUCTS PRIVILEGE AND SEVERANCE TAXES

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Article 4.

Forest Products Privilege And Severance Taxes.

Article does not deny equal protection of law. — The classification employed in this article does have a rational basis and the article does not deny equal protection of the laws. *Ray E. Loper Lumber Co. v. State*, 269 Ala. 425, 113 So. 2d 686 (1959).

§ g-13-80. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) **PERSON.** Such term includes any individual, firm, copartnership, association, corporation, receiver, trustee or any other group or combination acting as a unit.

(2) **DEPARTMENT.** The department of revenue of the state of Alabama.

(3) **TAXPAYER.** Any person liable for taxes under this article.

(4) **PRODUCER.** Any person engaging or continuing to engage in this state in the business of severing timber or any other forest products from the soil, whether as owner, lessee, concessionaire or contractor. Such definition shall also include any person who assembles or causes to be assembled any forest product for shipment out of the state of Alabama in an unmanufactured condition.

(5) **FOREST PRODUCTS.** Logs, timber, pulpwood, chemical wood, bolts, crossties and switch ties, mine ties, coal mine props, ore mine props, poles, piles, turpentine (crude gum) and stumpwood (tarwood).

(6) **SEVER.** To fell, cut or otherwise separate from the soil; provided, that for the purpose of this article, any person who is the owner or lessee of timber and is also the processor thereof or a manufacturer of products derived therefrom shall be deemed the person engaged in severing such timber from the soil, notwithstanding the fact that the severance is made by an independent contractor or otherwise.

(7) **COMMISSIONER.** The commissioner of revenue of the state of Alabama.

(8) **MANUFACTURER.** As applied to forest products suitable for manufacture into lumber, the person who operates the sawmill or plant in which such products are so manufactured into lumber; as applied to pulpwood, chemical wood and bolts, the person who operates the paper mill, chemical plant or other plant in which such forest products are processed; as applied to crossties, switch ties, mine ties, props, poles and piles, the person who purchases from the producer; as applied to turpentine, the person who processes or cooks the crude gum; as applied to stumpwood, the person who operates the plant or retort in which such product is processed.

(9) **CONCENTRATION YARD.** A place where lumber is brought or received within the state of Alabama in a green or rough form or condition for manufacturing or for processing or for resale. (Acts 1945, No. 169, p. 285, § 1; Acts 1953, No. 695, p. 948, § 1; Acts 1955, No. 530, p. 1177.)

“Pulpwood”. — There is nothing in this article to justify a holding that the legislature intended to include slabs, edgings or residue, considered waste material when this article was passed, within the term “pulpwood.” *State v.*

International Paper Co., 276 Ala. 448, 163 So. 2d 607 (1964).

It is clear from the full terms of the amendment of Section 9-13-82 that the legislature, in fixing a measure for the taxation of pulpwood chips, intended that "pulpwood" would apply to the now recognized two forms of pulpwood, i.e., small round logs and pulpwood chips. This being so, no need arose for the legislature to amend the original act defining pulpwood as a forest product, nor the further provision in the original act that, as applied to pulpwood, the paper mill is deemed the manufacturer thereof. *International Paper Co. v. Rabren*, 285 Ala. 333, 232 So. 2d 627 (1970).

The word "manufacturer" as defined by this section envisions a person engaged in processing or manufacturing forest products into a finished forest product. *State v. International Minerals & Chem. Corp.*, 381 So. 2d 60 (Ala. Civ. App. 1979), *aff'd*, 381 So. 2d 62 (Ala. 1980).

Collateral references. — 54 C.J.S., Logs & Logging, § 1.

§ 9-13-81. Levy of severance tax; lien upon forest products, etc., for payment of tax.

To provide further for conservation of the natural resources of the state by protection of the forest products and development of the forestry program, there is hereby levied and shall be collected as provided in this article a privilege tax on account of the business activities upon every person engaging or continuing to engage in the state in the business of severing timber or any other forest products from the soil for sale, profit or commercial use whether as owner, lessee, concessionaire or contractor. The privilege tax imposed by this article is in addition to other taxes now levied and shall be known as the forest products severance tax. Said tax, together with interest and penalties imposed by this article, shall be a lien upon the forest products so severed and upon the product or products manufactured therefrom until the tax imposed by this article with respect to such forest products shall have been paid or until such forest products or the products manufactured therefrom shall have been sold by the manufacturer thereof, but the lien of such tax shall not be enforceable against the bona fide purchaser from the manufacturer of any such forest products or of the products manufactured therefrom. (Acts 1945, No. 169, p. 285, § 2.)

Forest Products Severance Tax Act is a revenue act. *Colston v. Gulf States Paper Corp.*, 291 Ala. 423, 282 So. 2d 251 (1973). The Forest Products Severance Tax Act provides a tax on any severance of trees and who should pay the tax, who would collect it and how often the collectors would report. *Colston v. Gulf States Paper Corp.*, 291 Ala. 423, 282 So. 2d 251 (1973).

It is not regulatory on the timber business in that it made no attempt to regulate the business of cutting or growing timber, nor to specify who might or might not engage in such business or what kind of contracts they should make. *Colston v. Gulf States Paper Corp.*, 291 Ala. 423, 282 So. 2d 251 (1973).

Cited in *State v. International Paper Co.*, 276 Ala. 448, 163 So. 2d 607 (1964).

Collateral references. — 84 C.J.S., Taxation, §§ 349-372.

§ 9-13-82. Rates; additional privilege tax upon processors of or manufacturers using forest products; taxation of round wood pulpwood converted into chips.

(a) The measure of the tax is at the following rates:

(1) On pine lumber, \$0.50, per 1,000 feet board measure lumber tally. Where the timber is sold as logs and is not converted into lumber in Alabama, the rate shall be \$0.75 per 1,000 feet log scale (Doyle rule), except that logs under eight inches in diameter inside the bark at the small end shall be scaled as containing one foot log scale for each foot of length, or, at the election of the taxpayer, the rate shall be \$0.10 per ton (2,000 pounds).

(2) On hardwood, cypress, and all other species of lumber, \$0.30, per 1,000 feet board measure lumber tally. Where the timber is sold as logs and is not converted into lumber in Alabama, the rate shall be \$0.50 per 1,000 feet log scale (Doyle rule), except that logs under eight inches in diameter inside the bark at the small end shall be scaled as containing one foot log scale for each foot of length, or, at the election of the taxpayer, the rate shall be \$0.065 per ton (2,000 pounds).

(3) On pulpwood, chemical wood, and bolts, \$0.25, per standard cord of 128 cubic feet, or, at the election of the taxpayer, \$0.10 per ton (2,000 pounds).

(4) On crossties, \$0.015 per piece, or, at the election of the taxpayer, \$0.15 per ton (2,000 pounds), and on switch ties, \$0.025 per piece, or, at the election of the taxpayer, \$0.17 per ton (2,000 pounds).

(5) On mine ties and coal mine props, \$0.125 per 100 pieces, or, at the election of the taxpayer, \$0.15 per ton (2,000 pounds).

(6) On pine ore mine props, \$0.75 per 1,000 feet log scale (Doyle rule) and on hardwood ore mine props, \$0.50 per 1,000 feet log scale (Doyle rule), except that props under eight inches in diameter at the small end shall be scaled as containing one foot log scale for each foot of length, or, at the election of the taxpayer, \$3.125 per 1,000 lineal feet, or, \$0.15 per ton (2,000 pounds), regardless of species.

(7) On piling and poles, \$1.875 per 1,000 board feet (Doyle scale), or, at the election of the taxpayer, \$0.205 per ton (2,000 pounds).

(8) On turpentine (crude gum), \$0.15 per barrel of 400 pounds.

(9) On stumpwood (tarwood), \$0.125 per ton (2,000 pounds).

(10) On pulpwood chips, \$0.25 per 190 cubic feet, or, at the election of the taxpayer, \$0.10 per ton (2,000 pounds).

(b) There is also levied a privilege tax against the processor of the forest products or the manufacturer using the forest products in an amount equal to 50 percent of the tax on the severer as set out above. The privilege tax shall be collected in the same manner as the severance tax on the severer is collected. This tax is levied not only upon processors or manufacturers within this state but also upon out-of-state processors or manufacturers who obtain the timber within this state and ship it outside the state for completion of the manufacturing process. It is the legislative intent that this privilege tax is not to be levied in any manner upon the person owning the land from which the forest products are severed nor upon the person actually cutting the forest products but it is levied upon the processor processing the forest products or manufacturer using the forest products.

(c) Round wood pulpwood on which the tax has been paid shall not be subject to an additional tax when converted into chips, but the additional tax levied by subsection (b) of this section shall be paid by the person, firm, or corporation utilizing the chips in a manufacturing process. (Acts 1945, No. 169, p. 285, s 3; Acts 1955, No. 385, p. 921; Acts 1967, No. 763, p. 1619; Acts 1973, No. 500, p. 738; Acts 1985, No. 85-700, p. 1141, § 1; Acts 1988, 1st Ex. Sess., No. 88-842, p. 315, §1; Acts 1993, 1st Ex. Sess., No. 93-888, p. 158 § 2.)

The 1993, 1st Ex. Sess., amendment, effective October 1, 1993, in subsection (a), added the language beginning, "or, at the election" in subdivisions (1) through (3), rewrote subdivision (4), added the language beginning "or, at the election" in subdivision (5), in subdivision (6), combined the former first and second sentences into the present first sentence and in that sentence, inserted "or, at the election of the taxpayer," deleted "In lieu of the foregoing schedule of taxes on ore mine props, the taxpayer may elect to pay the taxes due thereon at the rate of" preceding "\$3.125" and inserted "or, \$0.15 per ton (2,000 pounds)," added the language beginning "or, at the election" in subdivision (7), and rewrote subdivision (10); and substituted "The privilege tax" for "Said privilege tax" in the second sentence of subsection (b).

Code Commissioner's note. — Acts 1993, No. 93-888, § 1 provides: "Historically, when the forest products privilege and severance taxes were enacted in 1945, most taxes were based on volumetric units such as board feet, cords, or pieces. Improved technology in the growing, harvesting, transportation, and manufacture of forest products has greatly diminished the use and utility of volumetric units. Most quantities of forest products grown, severed, or manufactured in this state are determined by weight. The forest products industry has effectively computed and paid the forest products privilege and severance taxes due on the forest products severed and processed in this state, through the use of a conversion formula, based on guidelines established by the Alabama Forestry Commission and approved by the Department of Revenue. The formula converted the quantity of the product as measured by weight to the quantity as measured by the relevant volumetric unit. Notwithstanding continuing compliance by the forest products industry in computing and paying the forest products privilege and severance taxes, the Legislature recognizes the need to update and modernize the tax laws of the state to reflect existing industry technology and practices. The updating and modernization of the forest products privilege and severance taxes requires that dual measures for the taxes be provided: one measure based on volumetric units and one measure based on weight. The Legislature intends to simplify future compliance with the forest products privilege and severance taxes by providing alternative measures for computing the taxes, one of which is intended to be compatible with the technology and practices of all members of the forest products industry. Development of dual measures for computing the forest products privilege and severance taxes involves a degree of approximation between the two measures to ensure that the amount of forest products privilege and severance taxes paid will be substantially the same regardless of which measure of computing the taxes is utilized. The dual measures were developed solely to accommodate ease in the administration, computation, and enforcement of the forest products privilege and severance taxes. The dual measures do not represent and are not intended to represent actual conversion factors between the volume and weight of various forest products. The dual measures are not intended to be utilized for any purposes other than for the establishment, computation, and collection of the forest products privilege and severance taxes."

Constitutionality. — The classification in this section is not based on residence, but is based on the difference between those who manufacture within the state and those who do not manufacture within the state. It does not violate the fourteenth amendment to the federal Constitution. *Ray E. Loper Lumber Co. v. State*, 269 Ala. 425, 113 So. 2d 686 (1959).

Tax in addition to tax imposed by section 40-12-154. — Even though a sawmill privilege license tax is required under § 40-12-154, the state may classify severers of timber and impose an additional tax on those who manufacture in this state at a rate measured by the amount of lumber produced from the timber severed in the state under this section. *Ray E. Loper Lumber Co. v. State*, 269 Ala. 425, 113 So. 2d 686 (1959).

Pulpwood chips taxable. — It is clear from the full terms of the amendment of this section that the legislature, in fixing a measure for the taxation of pulpwood chips, intended that "pulpwood" would apply to the now recognized two forms of pulpwood, i.e., small round logs and pulpwood chips. This being so, no need arose for the legislature to amend the original act defining pulpwood as a forest product, nor the further provision in the original act that, as applied to pulpwood, the paper mill is deemed the manufacturer thereof. *International Paper Co. v. Rabren*, 285 Ala. 383, 232 So. 2d 627 (1970).

Burden on mill to establish portion of pulpwood chips not taxable. — Where taxable and nontaxable pulpwood chips are intermingled by the paper mill, the burden is upon the paper mill to establish what portion of the pulpwood chips are not taxable. *International Paper Co. v. Rabren*, 285 Ala. 383, 232 So. 2d 627 (1970).

When company not processor of wood. — A company is not a processor or manufacturer of wood chips within the meaning of subsection (b) of this section and § 9-13-86 where the company buys its wood chips from several Alabama suppliers, where the wood logs have been processed into wood chips by someone else, and the company just buys them for its own manufacturing process. *State v. International Minerals & Chem. Corp.*, 381 So. 2d 60 (Ala. Civ. App. 1979), *aff'd*, 381 So. 2d 62 (Ala. 1980).

Collateral references. — 84 C.J.S., Taxation, §§ 390-488.

§ 9-13-83. Exemptions from taxes.

The taxes levied by this article shall not apply to nor shall such taxes be required of those individual owners of timber who occasionally sever or cut the same from their own premises to be utilized by them in the construction or repair of their own structures, buildings or improvements or for their home consumption or used by them in the processing of their farm products. (Acts 1945, No. 169, p. 285, § 4.)

Collateral references. — 84 C.J.S., Taxation, §§ 215-305.

§ 9-13-84. Payment and disposition of taxes generally; special state forestry fund; appropriation of tax receipts for use of state forestry commission.

The taxes imposed by this article, and any other taxes imposed on the severance of forest products, shall be due and payable quarterly to the state department of revenue and shall, when collected, be paid by such department into the state treasury. When so paid into the state treasury, all such taxes shall be credited by the treasurer to a special fund which is hereby created and which shall be known as the special state forestry fund of the state of Alabama, which fund shall be disbursed under the supervision of the state forester, subject to the restrictions embodied in this article, for the purpose of carrying out the statewide forestry program as provided by law and for no other or different purposes. Not less than 85 percent of the taxes collected under and by virtue of this article shall be expended for forest protection. No portion of such fund shall revert to the general fund of the state at the end of any fiscal year, and any surplus shall be allowed to accumulate from year to year and be disbursed as exigencies of the statewide forestry program may require.

There is hereby continuously appropriated the receipts from the taxes levied in this article to the state forestry commission for the use of the state forestry commission. Such amount of money as shall be appropriated for each fiscal year by the legislature to the department of revenue with which to pay the salaries, the cost of operation and the management of the said department shall be deducted, as a first charge thereon, from the taxes collected under and pursuant to said article; provided, however, that the expenditure of said sum so appropriated shall be budgeted and allotted pursuant to article 4 of chapter 4, Title 41 and limited to the amount appropriated to defray the expenses of operating said department for each fiscal year; provided further, however, that for the fiscal years ending September 30, 1989, and September 30, 1990, the portion of the receipts allocated to the forestry commission is hereby appropriated for use in their fire control program. (Acts 1945, No. 169, p. 285, § 5; Acts 1951, No. 843, p. 1474; Acts 1967, No. 763, p. 1619; Acts 1988, 1st Ex. Sess., No. 88-842, p. 315, § 1.)

Collateral references. — 84 C.J.S., Taxation, §§ 607-629.

§ 9-13-85. Expenditures for forest protection.

The percentage of the funds expended under this article for forest protection for the protection of farm forest lands shall not be less than the percentage that the area of the farm forest lands of the state is of the total area of the forest lands of the state. The percentage of the funds expended under this article for each four-year period for the forest protection in any county shall not be less than 50 percent of the amount of the tax collected on forest products severed from the soil in such county together with the equal portion of any available matching funds. (Acts 1945, No. 169, p. 285, § 6; Acts 1967, No. 763, p. 1619.)

Collateral references.- 81 C.J.S., States, §§ 133-135.

**§ 9-13-86. Filing of quarterly reports and payment of taxes –
Manufacturers of forest products or owners of concentration
yards; failure or refusal to collect tax from seller; refunds, etc.,
of tax collected from seller; penalties.**

Every manufacturer of forest products shall, within 30 days after the expiration of each quarter annual period expiring, respectively, on the last day of March, June, September and December of each year, file with the department of revenue of the state of Alabama a statement under oath, on forms prescribed by the said department of revenue, showing the kinds of forest

products and the gross quantity of each manufactured during the preceding quarter annual period by such manufacturer of forest products, showing the county or counties in which such products were severed from the soil and showing the gross quantity, if any, of such forest products severed from soil outside the state of Alabama and such other reasonable and necessary information pertaining thereto as the department of revenue may require for the proper enforcement of the provisions of this article. At the time of rendering such quarter annual reports, the manufacturer of forest products shall pay to the department of revenue the taxes imposed by this article with respect to all forest products severed from the soil in the state of Alabama and embraced in such report; provided, that in the case that any lumber is sold or delivered to a concentration yard as is defined in this article, then the taxes provided for in this article shall be reported and paid by the owner or owners of such concentration yard to the state instead of the manufacturer, but it shall be the duty of the owner or owners of any such concentration yard to collect the tax in all cases from the seller.

It shall be unlawful for the owner or owners of any such concentration yard to fail or refuse to collect the tax from the seller as aforesaid. It shall also be unlawful to refund or offer to refund all or any part of the tax collected by the owner of the concentration yard from a seller or to absorb or advertise directly or indirectly that the concentration yard will absorb or refund to the seller all or part of said tax. Any persons, firms, associations, corporations or copartnerships violating any of the provisions of this section or this article in said respect shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$50.00 nor more than \$100.00, or by imprisonment in the county jail for not more than six months or by both such fine and imprisonment, and each act in violation of the provisions of this article shall constitute a separate offense. (Acts 1945, No. 169, p. 285, § 7; Acts 1953, No. 695, p. 948, § 2.)

Manufacturer able to make reports concerning pulpwood chips. — If a manufacturer can make the required reports in the case of small round logs, there is no reason why the same could not be done when pulpwood chips are involved, rather than round logs. *International Paper Co. v. Rabren*, 285 Ala. 383, 232 So. 2d 627 (1970).

Burden on mill to establish portion of pulpwood chips not taxable. — Where taxable and nontaxable pulpwood chips are intermingled by the paper mill, the burden is upon the paper mill to establish what portion of the pulpwood chips are not taxable. *International Paper Co. v. Rabren*, 285 Ala. 383, 232 So. 2d 627 (1970).

When company not processor of wood. — A company is not a processor or manufacturer of wood chips within the meaning of § 9-13-82(b) and this section where the company buys its wood chips from several Alabama suppliers, where the wood logs have been processed into wood chips by someone else, and the company just buys them for its own manufacturing process. *State v. International Minerals & Chem. Corp.*, 381 So. 2d 60 (Ala. Civ. App. 1979), *aff'd*, 381 So. 2d 62 (Ala. 1980).

§ 9-13-87. Same — Producers of forest products shipping, etc., same out of state in unmanufactured condition.

Every producer of forest products who shall ship the same out of the state of Alabama in an unmanufactured condition or who shall sell such product for shipment outside the state of Alabama in an unmanufactured condition shall, within 30 days after the expiration of each quarter annual period expiring, respectively, on the last day of March, June, September and December of each year, file with the department of revenue a statement under oath, on forms prescribed by the department of revenue, showing the kinds of forest products and the gross quantity thereof severed from the soil in Alabama and shipped or sold for shipment to points outside the state of Alabama in an unmanufactured condition, the county or counties in which such products were severed from the soil and such other reasonable and necessary information pertaining thereto as the department of revenue may require for the proper enforcement of the provisions of this article. At the time of rendering such quarter annual reports, such producer of forest products shall pay to the department of revenue the taxes herein imposed by this article upon the forest products embraced in said report. (Acts 1945, No. 169, p. 285, § 8.)

§ 9-13-88. Maintenance of records, books and accounts by manufacturers, concentration yards and producers shipping forest products out of state in unmanufactured condition.

It shall be the duty of every manufacturer of forest products in this state and of every producer who shall ship forest products out of the state of Alabama in an unmanufactured condition and of every concentration yard as is defined in this article where any lumber is sold or delivered to it to keep and preserve suitable records with the items separated into the various items on which privilege taxes are levied in this article, and such other books or accounts as may be necessary to determine the amount of taxes for which he is liable under the provisions of this article. Said books and records shall be kept and preserved for a period of three years, and all such records shall be open for examination at any time by the department or its duly authorized agent. (Acts 1945, No. 169, p. 285,§9; Acts 1953, No. 695, p. 948, § 3.)

§ 9-13-89. Repealed by Acts 1977, No. 607, p. 812, § 9901, as amended, effective January 1, 1980.

§ 9-13-90. Failure to make reports or maintain records.

Any person subject to the provisions of this article who shall fail to make the reports or any of them as required by this article or who shall fail to keep the records as required by this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$25.00 nor more than \$500.00 for each offense. Each month of such failure shall constitute a separate offense. (Acts 1945, No. 169, p. 285,§11.)

§ 9-13-91. Repealed by Acts 1977, No. 607, p. 812, § 9901, as amended, effective January 1, 1980.

§ 9-13-92. Examination of returns and ascertainment of taxes due; refunding, etc., of excess taxes paid; notice of deficiency in taxes paid; interest and penalty on deficiency. Repealed by Acts 1992, No. 92-186, p. 349, § 80, effective October 1, 1992.

§ 9-13-93. When taxes delinquent.

The taxes provided in this article shall become delinquent after the date fixed for the filing of the quarter annual report to be filed in the office of the department of revenue. (Acts 1945, No. 169, p. 285,§28.)

Collateral references. - 84 C.J.S., Taxation, § 617.

§§ 9-13-94 through 9-13-98. Repealed by Acts 1992, No. 92-186, § 80, effective October 1, 1992.

§ 9-13-99. Lien upon property for payment of taxes, interest and penalties.

The taxes together with interest and penalties imposed by this article shall be a lien upon the property of any person subject to the provisions of this article, and the provisions of the revenue laws of the state of Alabama applying to liens for license taxes shall apply fully to the taxes levied by this article. (Acts 1945, No. 169, p. 285, § 19.)

Collateral references. — 84 C.J.S., Taxation, §§ 585-606.

§§ 9-13-100 through 9-13-102. Repealed by Acts 1992, No. 92-186, p. 349, § 80, effective October 1, 1992.

§ 9-13-103. Proceedings as to persons designing to engage in acts prejudicial to collection of taxes, etc.

If the department finds that a person liable for taxes under any provisions of this article designs quickly to depart from the state or to remove his property therefrom, or to conceal himself or his property therein or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless such proceedings are brought without delay, the department shall cause notice of such finding to be given such person together with a demand for an immediate return and immediate payment of such taxes. Thereupon such taxes shall become immediately due and payable. If such person is not in default in making such return or paying any taxes prescribed by this article and furnishes evidence satisfactory to the department under regulations to be prescribed by the department that he will duly return and pay the taxes to which the department's finding relates, then such tax shall not be payable prior to the time otherwise fixed for payment. If such person fails to appear and make such showing, then the department shall make such assessment final and execution may immediately issue as is provided in this article. (Acts 1945, No. 169, p. 285, § 23.)

§ 9-13-104. Reports of transporters of forest products – Required.

When requested by the commissioner, all transporters of forest products out of, within or across the state of Alabama shall be required to furnish said commissioner, under oath and upon forms prescribed by him, any and all information relative to the transportation of such forest products, and such reports shall contain, in addition to other required information, the name of the shipper, the date of shipment, the quantity and type or character of such forest products, stated in units or measurements applicable to such forest products, the point of receipt or shipment and the point of destination; provided, that in the case of common carriers using bills of lading or way bills prescribed or approved by the interstate commerce commission, such common carriers shall only be required to keep the usual records at the office or offices in this state where such records are usually kept. (Acts 1945, No. 169, p. 285, § 25.)

§ 9-13-105. Same – Failure to make report.

The failure of any person to make the transporter's report provided for in section 9-13-104 shall be punished by a fine of not less than \$50.00 and not more than \$500.00 for each offense. (Acts 1945, No. 169, p. 285, § 26.)

Collateral references. - 85 C.J.S., Taxation, § 1024.

§ 9-13-106. Payment of taxes by counties or municipalities purchasing forest products.

When the governing body of any county or municipality in the state shall purchase any forest products upon which the privilege taxes imposed by this article have not been paid, then the said governing body of said county or municipality shall withhold from the purchase price the amount of the taxes due and shall remit it to the department of revenue in the same manner as is required of other taxpayers. (Acts 1945, No. 169, p. 285, § 27.)

§ 9-13-107. Forest products to which taxes imposed by article applicable.

The taxes imposed by this article shall apply to any forest products severed from land owned by either the state of Alabama or the United States of America, where the forest products severed enter commercial channels of trade for competitive markets. (Acts 1945, No. 185, p. 285, § 24.)

§ 9-13-108. Taxes upon the excise or privilege of severing, processing, or manufacturing of forest products.

Any and all taxes upon the excise or privilege of severing processing, or manufacturing of forest products shall inure to the state of Alabama and shall be exercised only in a uniform, statewide tax. No tax shall be levied by local law or by any political subdivision of the state, including counties, cities, special taxing authorities or other taxing instrumentalities, upon the excise or privilege of severing, processing or manufacturing of forest products in Alabama. (Acts 1988, 1st Ex. Sess., No. 88-842, p. 315, § 2.)

SELECTED PROVISIONS
ACT 92-186
CHAPTER 2A, TITLE 40
CODE OF ALABAMA 1975

ALABAMA TAXPAYER'S BILL OF RIGHT
AND
UNIFORM REVENUE PROCEDURES ACT

Effective 10/92

§ 40-2A-2. Legislative intent, scope and procedures exclusive.

(1) **Legislative intent.** — The legislative intent of this chapter is to provide equitable and uniform procedures for the operation of the department and for all taxpayers when dealing with the department. This chapter is intended as a minimum procedural code and the department may grant or adopt additional procedures not inconsistent with this chapter. This chapter shall be liberally construed to allow substantial justice.

(2) **Scope.** — The provisions contained herein shall govern all matters administered by the department except as otherwise provided by law or by agreement entered into pursuant to lawful authority. However, nothing herein shall be construed to apply to the assessment of ad valorem taxes on real or personal property which is administered by the various counties of the State of Alabama, except that the determination and assessment of value of property of public utilities under Chapter 21 of Title 40, and the determination and assessment of value of corporate shares of stock under Article 4 of Chapter 14 of Title 40, shall be governed by the procedures set forth in this chapter.

(3) **Procedures exclusive.** — The department shall not be subject to the declaratory judgment, declaratory ruling, or contested case provisions of the Alabama Administrative Procedure Act, Chapter 22 of Title 41. (Acts 1992, No. 92-186, p. 349, § 2.)

§ 40-2A-11. Civil penalties levied in addition to other penalties provided by law.

(a) **Failure to timely file return.** — If a taxpayer fails to file any return required to be filed with the department on or before the date prescribed therefor (determined with regard to any extension of time for filing), there shall be assessed as a penalty the greater of 10 percent of any additional tax required to be paid with such return or \$50.00.

(b) **Failure to timely pay tax.** — If a taxpayer fails to pay to the department the correct amount of tax due on or before the date prescribed for payment of such tax (determined with regard to any extension of time for payment), there shall be added as a penalty one percent of the amount of such tax due if the failure to pay is for not more than one month, with an additional one percent for each additional month or fraction thereof during which such failure to pay continues, not exceeding 25 percent in the aggregate. However, in lieu of the penalty provided in the immediately preceding sentence, for any tax for which a monthly or quarterly return is required, or for which no return is required, the department shall add a failure to timely pay penalty of 10 percent of the delinquent tax.

(c) **Underpayment due to negligence.** — If any part of any underpayment of tax is due to negligence or disregard of rules or regulations, there shall be added to the tax an amount equal to five percent of that part of the tax attributable to negligence or disregard of rules or regulations.

For purposes of this subsection, the term “negligence” includes any failure to make a reasonable attempt to comply with the provisions of Title 40, and the term “disregard” includes any careless, reckless, or intentional disregard.

(d) **Underpayment due to fraud.** — If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of that portion of such underpayment which is attributable to fraud.

For purposes of this section, the term “fraud” shall have the same meaning as ascribed to the term under 26 U.S.C. Section 6663, as in effect from time to time.

(e) **Frivolous return penalty.** — If any taxpayer files a “frivolous return,” as that term is used in 26 U.S.C. 6702, such taxpayer may be liable for a penalty of up to \$250.00.

(f) Frivolous appeal penalty. — If any appeal to the administrative law division or circuit court is determined to be frivolous or primarily for the purpose of delay or to impede collection of any tax, a penalty of \$250.00 or 25 percent of the tax in question, whichever is greater, shall be assessed in addition to any tax due.

(g) Penalties not exclusive. — The penalties provided in this section for failure to timely file a return, failure to timely pay tax, filing a frivolous return, filing a frivolous appeal, or negligence may be asserted against the same taxpayer for the same tax period. If the fraud penalty is asserted, no other penalties shall be asserted.

(h) Waiver of penalties. — The department is authorized to reduce or waive any penalties upon a determination of reasonable cause. Reasonable cause shall include, but not be limited to, those instances where the taxpayer has acted in good faith in filing a return or reporting or paying any tax. However, the burden of proving reasonable cause shall be on the taxpayer.

(i) Penalty and **interest assessed as tax**. — All penalties and interest administered by the department shall be assessed and collected in the same manner as taxes.

§ 40-I-44. Interest on delinquent taxes and overpayments.

(a) Interest shall be added as provided herein to any tax or other amount due the department which is not paid by the due date. Interest on any delinquency shall be charged from the due date of the tax, except (1) interest on delinquent license taxes levied under Chapter 12 of this title shall be charged from the delinquent date provided in subsection (e) of Section 40-12-10; and (2) interest on delinquent license tax and registration fees levied on motor vehicles shall be charged beginning after the period allowed for registration or renewal; and (3) interest on the freight lines and equipment companies tax levied in Section 40-21-52 shall be charged from the delinquent date thereof. Such interest shall be computed based on the underpayment rate established by the Secretary of the Treasury under the **authority of 26 USC 6621**.

(b)(l) Except as provided in Subdivision (2) of this Subsection (b), interest shall be paid by the department on any refund of tax erroneously paid directly to the department. Interest shall be computed on any overpayment from the date of overpayment to the department; except, a. interest on any refund resulting from a net operating loss carryover or carryback shall be computed from the date the claim giving rise to the refund is filed, b. interest on any overpayment of tax withheld and paid over to the state pursuant to Article 2 of Chapter 18 of this title and estimated tax paid pursuant to Section 40-18-83, shall be paid beginning 90 days after the due date of the return required by Section 40-18-27 for individuals, and Section 40-18-39 for corporations, or the date such return is filed, whichever is later. Interest as required above shall be computed at the same rate as provided herein for interest on under-payments.

(2) No interest shall be paid on any overpayment of the following taxes:

- a. Taxes paid by entities for which a refund is allowed by Sections 40-9-12 and 40-9-13;
- b. License taxes which are refunded pursuant to Sections 40-12-23 and 40-12-24;
- c. Gasoline taxes paid on gasoline used for agricultural purposes for which a refund is allowed by Division 3, Article 2, Chapter 17 of this title;
- d. Gasoline taxes paid on gasoline used for the static testing of engines for which a refund is allowed by Division 4, Article 2, Chapter 17 of this title;
- e. The motor fuels excise tax levied by Section 40-17-141 for which a refund or credit is allowed by Section 40-17-142; and

f. The tobacco taxes levied by Chapter 25 of this title. (Acts 1981, No. X1-258; Acts 1981, 1st Ex. Sess., No. 81-988, p. 174; Acts 1992, No. 92-186, p. 349, §19.)

The 1992 amendment, effective October 1, 1992, rewrote this section.

Cross references. — As to interest on overdue use taxes see § 40-23-77.

The purpose of the second sentence of this section was to establish a flexible rate of interest to be applied in those situations where the commissioner had been authorized to pay interest on tax refunds. *Sizemore v. Fishermen Marine Rods., Inc.*, 536 So. 2d 73 (Ala. Civ. App. 1988).

Where there was no specific statutory authorization for the payment of interest on tax refunds, this section was not activated and could not be applied; in other words, the rate of interest to be determined according to this section would be applied only where the payment of interest on a refund had been specifically authorized. *Sizemore v. Fishermen Marine Rods., Inc.*, 536 So. 2d 73 (Ala. Civ. App. 1988).

The payment of interest on tax refunds is dependent on specific statutory authority. *Sizemore v. Fishermen Marine Prods., Inc.*, 536 So. 2d 73 (Ala. Civ. App. 1988).

Ad valorem taxes administered by department of revenue. — Combining the explicit language of these statutes with the actions and practices of the department of revenue, the inescapable conclusion is that the ad valorem taxes in Alabama are administered by the department of revenue. Such an interpretation would not cause this section to be in direct conflict with § 40-5-Y. *Sims v. White*, 522 So. 2d 239 (Ala. 1988).

This section and § 40-2-11 demonstrate the department of revenue's general and complete control and supervision over the valuation, assessment, and collection of ad valorem taxes in Alabama. The department has the authority to set aside the assessments of the local officials and impose its own assessments. *Sims v. White*, 522 So. 2d 239 (Ala. 1988).

Collateral references. 85 C.J.S., Taxation, §§ 1104(1), 1109. 71 Am. Jur. 2d, State and Local Taxation, §§ 606, 611

ALABAMA DEPARTMENT OF REVENUE
NATURAL RESOURCES AND LICENSE TAX DIVISION
P. O. Box 327560 • Montgomery, AL 36132-7560 • (205) 242-9612

Acct. No. _____

Control No. _____

Processors Forest Products Severance Tax Return

TITLE 9, CHAPTER 13, ARTICLE IV

DATE RECEIVED _____

For the Quarter Beginning _____, 19_____, And Ending _____, 19_____

And Processed Or Otherwise Manufactured At Plant Located At _____

TAXPAYER NAME	FEIN		
ADDRESS	CITY	STATE	ZIP
CONTACT PERSON (PLEASE TYPE OR PRINT)	TELEPHONE		

County of Severance _____

If Forest Products are severed in more than one county, a
Form FPST-4 must also be filed.

Do Not Use This Space

☐ Check here if new address☐ Check here if payment made through EFT

CODE	KIND OF PRODUCTS	TONS	OTHER	RATE OF TAXATION	TOTAL TAX	
1	Pine Lumber			\$.25 per M ft. B.M.		
2	Pine Logs			\$.05/ton or \$.375/M ft. Logscale (Doyle Rule)		
3	Hardwood, Cypress & other Lumber ..			\$.15/M ft. B.M.		
4	Hardwood, Cypress & other Logs			\$.0325/ton or \$.25/M ft. Logscale (Doyle Rule)		
5	Pulpwood, Chemical Wood and Bolts:					
	a. Pine short logs			\$.05/ton or \$.125/Cord of 128 cu. ft.		
	b. Hardwood short logs			\$.05/ton or \$.125/Cord of 128 cu. ft.		
6	Pulpwood, Chips:					
	a. Pine			\$.05/ton or \$.125/190 cu. ft.		
	b. Hardwood			\$.05/ton or \$.125/190 cu. ft.		
7	Cross Ties			\$.075/ton or \$.0075/piece		
8	Switch Ties			\$.085/ton or \$.0125/piece		
9	Mine Ties			\$.075/ton or \$.0625/100 pieces		
10	Coal Mine Props			\$.075/ton or \$.0625/100 pieces		
11	Pine Ore Props			\$.375/M ft. Logscale (Doyle Rule)		
12	Pine Ore Props			\$.075/ton or \$1.5625/M Lineal Ft.		
13	Hardwood Ore Mine Props			\$.25/M ft Logscale (Doyle Rule)		
14	Hardwood Ore Mine Props			\$.075/ton or \$1.5625/M Lineal Ft.		
15	Crude Turpentine			\$.075/Barrel of 400 lbs.		
16	Stumpwood			\$.0625/ton.		
17	Poles/Piling			\$.1025/ton or \$.9375/M Bd. ft. (Doyle Scale) .		
Total Tax Due						
Penalty and Interest						
Total Due						

AFFIDAVIT

STATE OF ALABAMA, COUNTY of _____

Before me, the undersigned authority, personally appeared _____
who, being by me first duly sworn, deposes and says that he is a duly authorized representative of _____
_____ and that the foregoing statement is true and correct.

Sworn to and subscribed before me this _____
day of _____ 19 _____.

Signature of Deponent

Notary Public

ALABAMA DEPARTMENT OF REVENUE
NATURAL RESOURCES AND LICENSE TAX DIVISION
P. O. Box 327560 • Montgomery, AL 36132-7560 • (205) 242-9612

Acct. No. _____

Control No. _____

Forest Products Severance Tax Return

TITLE 9, CHAPTER 13, ARTICLE IV

DATE RECEIVED

For the Quarter Beginning _____, 19_____, And Ending _____, 19_____

And Processed Or Otherwise Manufactured At Plant Located At _____

TAXPAYER NAME	FEIN		
ADDRESS	CITY	STATE	ZIP
CONTACT PERSON (PLEASE TYPE OR PRINT)	TELEPHONE		

County of Severance _____

If Forest Products are severed in more than one county, a
Form FPST-4 must also be filed.

Do Not Use This Space

☐ Check here if new address☐ Check here if payment made through EFT

CODE	KIND OF PRODUCTS	TONS	OTHER	RATE OF TAXATION	TOTAL TAX
1	Pine Lumber			\$.50 per M ft. B.M.	
2	Pine Logs			\$.10/ton or \$.75/M ft. Logscale (Doyle Rule) ..	
3	Hardwood, Cypress & other Lumber ..			\$.30/M ft. B.M.	
4	Hardwood, Cypress & other Logs			\$.065/ton or \$.50/M ft. Logscale (Doyle Rule)	
5	Pulpwood, Chemical Wood and Bolts:				
	a. Pine short logs			\$.10/ton or \$.25/Cord of 128 cu. ft.	
	b. Hardwood short logs			\$.10/ton or \$.25/Cord of 128 cu. ft.	
6	Pulpwood, Chips:				
	a. Pine			\$.10/ton or \$.25/190 cu. ft.	
	b. Hardwood			\$.10/ton or \$.25/190 cu. ft.	
7	Cross Ties			\$.15/ton or \$.015/piece	
8	Switch Ties			\$.17/ton or \$.025/piece	
9	Mine Ties			\$.15/ton or \$.125/100 pieces	
10	Coal Mine Props			\$.15/ton or \$.125/100 pieces	
11	Pine Ore Props			\$.75/M ft. Logscale (Doyle Rule)	
12	Pine Ore Props			\$.15/ton or \$3.125/M Lineal Ft.	
13	Hardwood Ore Mine Props			\$.50/M ft Logscale (Doyle Rule)	
14	Hardwood Ore Mine Props			\$.15/ton or \$3.125/M Lineal Ft.	
15	Crude Turpentine			\$.15/Barrel of 400 lbs.	
16	Stumpwood			\$.125/ton	
17	Poles/Piling			\$.205/ton or \$1.875/M Bd. ft. (Doyle Scale) ..	
Total Tax Due					
Penalty and Interest					
Total Due					

AFFIDAVIT

STATE OF ALABAMA, COUNTY of _____

Before me, the undersigned authority, personally appeared _____

who, being by me first duly sworn, deposes and says that he is a duly authorized representative of _____

_____ and that the foregoing statement is true and correct.

Sworn to and subscribed before me this _____

day of _____ 19_____.

Signature of Deponent

Notary Public